

**AGENDA REPORTS**  
**02-15-2005**

**Agenda Item No. 6a**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0014

TO: Mayor and City Council

SUBJECT: Consultant Services Contract – High Performance Organization

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendation: Approve the consultant contract.

Background: The City Manager desires to develop a project to accelerate the City of Wichita into a high performing organization using continuous quality improvement processes. This initiative is similar to improvements that have been completed in the development departments over the past eight years.

At the December 21, 2004 City Council meeting, the governing body approved the project, initial funding sources and authorized staff to solicit proposals for consultant services. A Request for Qualifications (RFQ) was issued and 15 responses were received. The Staff Screening and Selection Committee evaluated the responses and invited five firms to respond to a formal Request for Proposal (RFP). Four proposals were received. The Public Strategies Group, Inc., St. Paul, Minnesota, was the unanimous choice by the selection committee. Selection of the consultant was based on demonstrated competence, qualifications, compatibility and innovative funding strategies.

Analysis: The improvement initiative will be two-phase with the first phase lasting approximately six months and phase two encompassing two to five years. It is anticipated that the consultant services will be retained for a maximum two-year period with options to renew the contract under the same term and conditions for three successive one-year periods by mutual agreement of both parties. The contract will be subject to cancellation by the City at its discretion at any time within the original contract term or within any successive renewals upon thirty days written notice to the consultant.

Financial Considerations: The phase one contract will be for a not to exceed amount of \$150,000 for deliverables and \$30,000 for reimbursable expenses. The Council approved funding for the \$150,000 at the December 21, 2004 meeting. Funding for the reimbursables will be through a budget transfer from Research and Development.

Legal Considerations: The Law Department has approved the contract to form.

Recommendation/Actions: It is recommended that the City Council approve the contract with The Public Strategies Group, Inc., approve the budget transfer and authorize the necessary signatures.

### **Agenda Item No. 6b**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0015

TO: Mayor and City Council

SUBJECT: Contract for Professional Services - 2030 Transportation Plan Update

INITIATED BY: Metropolitan Area Planning Department (MAPD)

AGENDA: City Council Consent

Recommendation: Approve a contract for completing the 2030 Transportation Plan Update

Background: Federal regulations require that Metropolitan Planning Organizations (MPOs) update the Long-Range Transportation Plan at least once in five years. The Transportation Plan Update must incorporate public involvement activities, traditional and non-traditional transportation systems, and address transportation issues as identified through the planning process. The Wichita-Sedgwick County MPO's Transportation Plan was approved in March 2000, and will be updated in August 2005.

Analysis: The MAPD staff serves the Wichita-Sedgwick County MPO. Professional consulting services are sought to assist staff in completing the update process. The plan will include recommended improvements for mid-term (2015) and long-term (2030) scenarios, and will cover all surface transportation modes. This update will recognize changes in the development patterns and growth projections since the adoption of the previous plan. The Plan covers a larger planning area due to the expansion of the

metropolitan planning boundary, and ensures participation of all local jurisdictions, transportation stakeholders, and the general public in the plan development process.

Five proposals were received in response to the Request for Proposals (RFP). Parsons Brinkerhoff Quade and Douglas, Inc. was chosen by members of the consultant selection committee that comprised of officials from the Federal Highway Administration, Kansas Department of Transportation, staff from Wichita and Sedgwick County Public Works, Wichita Transit, and the MAPD.

Financial Considerations: This contract is for a total sum of \$409,000.00. Federal transportation planning funds available to the MPO will be used to pay 100 percent of the costs associated with the contractual services.

Legal Considerations: The Law Department has approved the contract as to form. Federal regulations require all metropolitan areas to update the Transportation Plan every five years.

Recommendations/Actions: It is recommended that the City Council approve the selection of Parsons Brinkerhoff Quade and Douglas, Inc. to complete the 2030 Transportation Plan Update, and authorize the necessary signatures to execute the contract.

Attachment:

1. Consultant agreement and scope of work

### **Agenda Item No. 6c**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0016

TO: Mayor and City Council Members

SUBJECT: City Hall Garage Repairs (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Contract.

Background: Construction of the City Hall Parking Garage was completed in December of 1995. It consists of four levels with a parking capacity of 641 vehicles. The construction is comprised of precast and prestressed concrete elements.

In 1999 Walker Parking Consultant/Engineers, Inc. did the first and only condition appraisal and maintenance review of the City Hall Garage. Repair and maintenance work identified in their report were completed.

On November 16, 2004, City Council approved the CIP project, adopted the Resolution, and authorized staff to solicit for an architect/engineer to perform a conditional appraisal/maintenance review and construct the necessary repairs.

Analysis: On December 7, 2004, Purchasing advertised Request for Proposal No. FP400125 for consultant services for a condition appraisal/maintenance review and modifications of the City Hall Parking Garage. Only one proposal was received from the combined firms of McCluggage Van Sickle Perry Corp. and Walker Parking Consultants, Inc. This is the same combined firms that did the original design and construction of the garage in 1995.

They propose to complete a condition appraisal and maintenance review for a base fee of \$12,000 plus reimbursable expenses not to exceed \$5,850 for a total fee of \$17,850. Once the condition appraisal/ maintenance review is completed, fees would have to be negotiated for work related to writing bid specifications. Fees for this work were not quoted because until the actual condition appraisal and maintenance review is completed the actual scope of work needed is not known.

Since this is a “single source response” and the proposed fee is less than the approved CIP budgeted amount a contract was negotiated without the Staff Screening and Selection Committee being convened.

Financial Considerations: The project is authorized in the 2004-2013 Capital Improvement Program (CIP) (PB-340402 (Project No. 435392, OCA #792427) for \$50,000 for a condition appraisal, specifications and bid documents, \$200,000 for actual repairs and modifications for a total of \$250,000.

Legal Considerations: The Law Department has approved the Contract as to form.

Recommendation/Action: It is recommended that the City Council approve the Contract and authorize the necessary signatures.

CONTRACT FOR ARCHITECTURAL SERVICES

THIS AGREEMENT, Made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

BY AND BETWEEN  
KANSAS,

THE CITY OF WICHITA,

A Municipal Corporation, hereinafter  
referred to as

"OWNER"

AND

MCCLUGGAGE VAN SICKLE & PERRY  
CORPORATION, hereinafter referred to as  
"ARCHITECT"

WHEREAS, The CITY is authorized by law to employ consulting architects and engineers to assist in the plans, supplemental specifications (if required) and the estimates of costs of work for the PROJECT; and

WHEREAS, the OWNER desires to have a Condition Appraisal/Maintenance Review, plans and specifications prepared and to construct modifications to the City Hall Parking Garage; and

WHEREAS, ARCHITECT wishes to provide professional services to the OWNER to do such evaluation, preparation of plans and specifications, and related services therefore:

NOW, THEREFORE, in consideration of the promises and covenants herein contained and to be performed, the parties hereto agree as follows:

I. PURPOSE:

The OWNER employs the ARCHITECT and he agrees to perform all necessary professional services hereinafter set forth in connection with the Condition Appraisal/Maintenance Review, plans and specifications and modifications PROJECT of the City of Wichita, City Hall Parking Garage, located generally at 455 North Main, Wichita, Sedgwick County, Kansas.

II. BASIC SERVICES:

The ARCHITECT shall render all architectural services necessary as set out in EXHIBIT "A" a copy of which is attached hereto and which is incorporated herein by reference.

III. THE ARCHITECT AGREES

A. To provide the various technical and professional services and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit "A").

B. To attend meetings with the OWNER and other local, State and Federal agencies as necessitated by the SCOPE OF SERVICES (Exhibit "A").

C. To make available during regular office hours, all calculations, sketches and drawings such as the OWNER may wish to examine periodically during performance of this Agreement.

D. To save and hold OWNER harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ARCHITECT, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ARCHITECT and, where relevant to method of payment, to make such material available to the OWNER.

F. To comply with Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the OWNER'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article V and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with the tasks as outlined in the SCOPE OF SERVICES (Exhibit "A").

H. To complete the services to be performed by ARCHITECT within the time allotted for the PROJECT in accordance with Paragraph VI, Time of Completion; EXCEPT that the ARCHITECT shall not be responsible or held liable for delays occasioned by the actions or inactions of the OWNER or other agencies, or for other unavoidable delays beyond the control of the ARCHITECT.

I. Covenants and represents to be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ARCHITECT under this Agreement. ARCHITECT further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ARCHITECT, its agents, employees and subcontractors, under this Agreement, including any addition, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ARCHITECT shall procure and maintain such insurance as will protect the ARCHITECT from damages resulting from the negligent acts of the ARCHITECT, its

officers, and employees in the performance of the professional services rendered under this Agreement. Such policy of insurance shall be in an amount not less than \$100,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation ☐ Statutory Employer's Liability  
\$500,000 each occurrence

Further, a comprehensive general liability policy shall be procured and maintained by the ARCHITECT that shall be written in a comprehensive form and shall protect ARCHITECT against all claims arising from injuries to persons (other than ARCHITECT'S employees) or damage to property of the OWNER or others arising out of any negligent act or omission of ARCHITECT, its agents, officers, employees or subcontractors in the performance of the professional services under this Agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the OWNER before the time ARCHITECT starts any work under this Agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the OWNER shall be given thirty (30) days written notice by the insurance company before such policy is canceled.

K. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The ARCHITECT agrees to advise the OWNER, in writing, of the person designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this Agreement. The ARCHITECT shall also advise the OWNER of any changes in the person designated Project Manager. Written notification shall be provided to the OWNER for any changes exceeding one week in length of time.

The designated Project Manager WILL coordinate ALL aspects of this Project through the OWNER'S Project Manager. Any requests from any other staff agency, which would affect the ARCHITECTS time or expense relative to this Project, MUST be approved by the OWNER'S Project Manager.

#### IV. THE OWNER AGREES:

A. To furnish all available data pertaining to the PROJECT now in the OWNER'S files at no cost to the ARCHITECT. Confidential material so furnished will be kept confidential by the ARCHITECT.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ARCHITECT, except as specified in EXHIBIT "A".

C. To pay the ARCHITECT for his services in accordance with the requirements of this Agreement.

D. To provide the right of entry for ARCHITECT'S personnel in performing field surveys and observations.

E. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The OWNER agrees to advise, the ARCHITECT, in writing, of the person designated as Project Manager with the issuance of the notice to proceed on the work required by this Agreement. The OWNER shall also advise the ARCHITECT of any changes in the person designated Project Manager. Written notification shall be provided to the ARCHITECT for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ARCHITECT in a timely fashion.

G. To save and hold ARCHITECT harmless against all suits, claims, damages and losses for injuries to persons or property arising from or cause by errors, omissions, or negligent acts of OWNER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Contract.

#### V. PAYMENT PROVISIONS:

The OWNER agrees to pay the ARCHITECT for services rendered under this Agreement and as specifically detailed in EXHIBIT "A", a total fee established as follows:

A. For the Phase I services and other related items including those items identified in SCOPE OF SERVICES, EXHIBIT "A" a single stipulated lump sum fee of twelve thousand dollars (\$12,000.00) which shall constitute complete compensation for the services. In addition the ARCHITECT will be directly reimbursed for other services, as follows:

1. Reimbursable Expenses: Reimbursable expenses include 1.10 times the cost of travel and subsistence, toll telephone calls and fax transmissions, postage and overnight mail, reproductions (bidding documents not included), and similar project-related costs. Testing and contractor expenses will be passed through at actual cost. Local travel is not included. Reimbursable expenses will be limited to a total fee of six thousand dollars (\$6,000.00) as follows:

Contractor Obtaining Core Samples	\$1,000.00
Laboratory Materials Testing	\$2,500.00
Travel Subsistence	\$1,600.00
Misc. Office Expenses	\$ 750.00



Contingency

\$ 150.00

B. Payments are payable to the ARCHITECT within thirty (30) working days from the date of receipt of invoice. If any invoice is outstanding for more than thirty (30) working days from the date due, the ARCHITECT shall have the right, in addition to any and all other rights provided, to refuse to render further services to the OWNER and such act or acts shall not be deemed a breach of this agreement. Continued performance and/or completion of work by the ARCHITECT under this agreement are contingent upon payment of fees by the OWNER. The OWNER shall reimburse the ARCHITECT for all costs incurred in collection of unpaid accounts, including, without limitation, all reasonable attorney and legal expenses.

C. When requested by the OWNER, the ARCHITECT will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. ARCHITECT or witness for the OWNER in any litigation, administrative hearing, and other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this Agreement.
3. Construction staking, material testing, observation and administration related to the PROJECT.
4. A major change in the SCOPE OF SERVICES for the PROJECT.

D. If additional work should be necessary, the ARCHITECT will be given written notice by the OWNER along with a request for an estimate of the increase necessary in the not to exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

E. If services are rendered by the ARCHITECT for project(s) or portions of the project(s), in the Programming, Pre-Design, and Schematic Design but the OWNER elects to cancel the project(s) or portions thereof at any time during these phases, the ARCHITECT shall be compensated at an amount in proportion to the services rendered as stated in Paragraph A above, multiplied by the percentage completion, as outlined in Paragraph E below.

F. This fee shall be payable in monthly installments, and in proportion to the services performed, payable upon the satisfactory performance of the service.

#### VI. TIME OF COMPLETION:

The ARCHITECT agrees to complete all Planning Phases of this PROJECT as follows:

A. For the Phase I services forty (40) working days from the date of approval of the Contract pending availability of OWNER and staff.

B. The OWNER agrees to cooperate with the ARCHITECT in considering drawings and data submitted and to make necessary decisions promptly to facilitate completion in the stipulated time, and the OWNER agrees to furnish promptly to the ARCHITECT upon written request any approvals and instructions required to be given by the OWNER to the ARCHITECT under the terms of the Contract.

#### VII. REVISIONS OF PLANS:

Unless the OWNER officially in written form has authorized an increase in funds established for the construction estimates of cost, the ARCHITECT agrees to make any such revisions in plans and specifications as are necessary and as are satisfactory to the OWNER, to bring the PROJECT within the approved estimated cost, such revisions to be made at his own expense without cost to the OWNER, whether or not said plans and specifications have theretofore been approved by the OWNER; PROVIDED, that if said plans and specifications have been approved by the OWNER, should the OWNER desire any material changes in the type of construction or other changes not necessary to be made for the purpose of bringing the cost of the PROJECT within the estimate, the OWNER shall pay the ARCHITECT the cost of making such revisions.

#### VIII. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the OWNER to terminate this Agreement, upon fourteen days prior written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ARCHITECT'S inability to proceed with the work, or because the services of the ARCHITECT are unsatisfactory; PROVIDED, however, that in any case the ARCHITECT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this Agreement, in no case shall payment be more than the ARCHITECT'S actual costs plus a fee for profit based upon a fixed percentage of the ARCHITECT'S actual costs. The ARCHITECT may terminate this Agreement upon giving the OWNER 30 days prior written notice for breach by the OWNER of any material term, including but not limited to payment terms.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the OWNER upon completion or termination of the ARCHITECT'S services and payment in full of monies due the ARCHITECT, in accordance with this Agreement. The OWNER shall not re-use or make any modification of the plans and specifications without the prior written authorization of the ARCHITECT. The OWNER agrees to hold the ARCHITECT harmless from all claims, liability or cost, including reasonable attorney fees and defense costs, which arise out of such further use without the participation of the ARCHITECT.

C. That the services to be performed by the ARCHITECT under the terms of this Agreement are personal and cannot be assigned sublet or transferred without specific consent of the OWNER. The OWNER shall not assign or transfer rights or interest in this Agreement without specific consent of the ARCHITECT.

D. In the event of unavoidable delays in the progress of the work contemplated by this Agreement, reasonable extensions in the time allotted for the work will be granted by the OWNER, provided, however, that the ARCHITECT shall request extensions, in writing, giving the reasons therefore.

E. It is further agreed that this Agreement and all Contracts entered into under the provisions of this Agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ARCHITECT under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.

G. The rights and remedies of the OWNER and the ARCHITECT provided for under this Agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this Contract, that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

I. Unless otherwise stipulated in this Agreement, all subcontractors retained to assist ARCHITECT in performing his duties will be paid by the ARCHITECT.

J. The ARCHITECT agrees to employ structural, mechanical, civil, and electrical engineers, if necessary, as determined by the ARCHITECT and OWNER jointly, for design and analysis and to pay the fees as contracted for with the individual engineers for such services. These fees are not reimbursable expenses.

K. Special Consultants or Subcontractors are those who provide services other than those provided by the ARCHITECT. If it is requested that any Special Consultants or Subcontractors be retained on the OWNER'S behalf, their charges will be paid separately and directly by the OWNER. Invoicing and payment shall be arranged separately between the OWNER and the Special Consultants or Subcontractors.

L. If a firm or firms are separately engaged by the OWNER to work under the general direction of the ARCHITECT, the ARCHITECT shall have no responsibility or technical sufficiency of the services of such separately engaged firms.

M. It is further agreed that this Agreement and all Contracts entered into under the provisions of this Agreement shall be governed by the laws of the State of Kansas.

N. Unless otherwise provided in this Agreement, the ARCHITECT and employees, or subcontractors shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

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Carlos Mayans, Mayor

ATTEST:  
PERRY

MCCLUGGAGE VAN SICKLE &  
CORPORATION

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by \_\_\_\_\_  
Karen Sublett  
City Clerk

Jeffrey T. Van sickle, AIA  
CEO

APPROVED AS TO FORM:

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Gary E. Rebenstorf  
Director of Law

EXHIBIT "A"

SCOPE OF SERVICES

CITY HALL PARKING GARAGE  
CONDITION APPRAISAL/MAINTENANCE REVIEW

## AND MODIFICATIONS

Introduction: The City of Wichita's City Hall Parking Garage represents a significant investment of capital funds. To maximize the garages useful service life in the most cost-effective, efficient manner possible, the OWNER will retain the firm of McCluggage Van Sickel Perry Corp. (ARCHITECT) who will employ as a consulting engineer the firm of Walker Parking Consultants to continue their maintenance program by developing a condition audit and recommendations for repairs and modifications to the parking structure. This will afford the OWNER greater flexibility for planning and budgeting facility repairs, modifications and maintenance.

Objective: To review with specific evaluation made of the garage structural and operational maintenance condition as well as immediate repairs that is necessary to maintain ramp operations, serviceability and safety. These evaluations will form the basis of the revised maintenance/restoration programs for the garage structure.

### PHASE I: CONDITION APPRAISAL/MAINTENANCE EVALUATION

1. Meet with OWNER to review project objectives and to gain an understanding of the history of the project subsequent to its original construction, including changes or additions to the facility and any previous maintenance, repairs, or evaluations.
2. Review condition appraisal reports, construction documents including plans, specifications, and repair drawings for the existing structure to become familiar with the type of construction and protection systems initially specified and previous repair programs.
3. Perform a visual observation of the structural system documenting type, locations, and magnitude of observed concrete deterioration. In addition, a chain drag delamination survey of selected areas will be performed. Items that will be assessed are:
  - a. Floor slab surface condition, exposed reinforcement, and finish variations.
  - b. Cracking of slabs.
  - c. Condition of joints and sealant system.
  - d. Condition of structural members such as columns, beams, spandrels and walls.
  - e. Condition of ceilings, including cracks and concrete spalls.
4. Evaluate items in need of immediate corrective action for the safety of parking facility patrons.
5. Coordinate concrete tests to determine the actual physical and chemical properties of the in-place concrete. A testing plan will be formulated and the following tests will be considered:

- a.      Petographic (microscopic) examination of two (2) core samples to assess the general concrete quality, including entrained air parameters. This information is used to gauge the relative durability of the in-place concrete and provide needed information for the correct recommendation for repair.
  - b.      Compressive strength of two (2) core samples.
  - c.      Chloride analysis of pulverized concrete powder samples taken from selected locations to determine the extent and degree of chloride contamination of the concrete topping. (5 locations at 3 incremental depths – 15 samples total)
  - d.      Coordinate a local contractor to obtain and patch core and powder samples for submittal to an independent laboratory.
6.      Perform a visual review of other garage components including the stairs (external and internal), drainage system, exposed electrical conduit, light fixtures, external steel painted surfaces, interior steel painted surfaces and floor covering, façade and other elements of the structure as needed.
7.      Compile and review all field and materials test data to assess the probable causes and effects of the documented deterioration on the structure.
8.      Evaluate and present general restoration priorities and alternatives, and include probable costs for the repairs/maintenance and modifications to include OWNER desired modifications to the exterior southwest stair tower, exterior steel painted surfaces, and the rubber floor tile in the east elevator/stair tower.
9.      Prepare a written report indicating background, observations, findings, restoration and maintenance recommendations, alternatives, priorities of repairs/maintenance, laboratory test results, and associated construction cost estimates.
10.     Provide three (3) color copies of the evaluation/maintenance and modifications report.

**NOTE: ONCE THE PROJECT SCOPE IS DEFINED BY, THE PHASE I SERVICES THE OWNER WILL NEGOTIATE A CONTRACT AMENDMENT WITH THE ARCHITECT FOR THE CONSTRUCTION DOCUMENTS, BIDDING, AND CONSTRUCTION ADMINISTRATION PHASES. THESE PHASES WILL BE BASED ON AVAILABLE PROJECT FUNDS AND IN ACCORDANCE WITH COST ESTIMATES AND REPAIR/IMPROVEMENT MODIFICATIONS RECOMMENDED BY THE PHASE I EVALUATION.**

**REVISED NONDISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY STATEMENT  
FOR CONTACTS OR AGREEMENTS**

During the term of this Contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following

Nondiscrimination – Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this City contract the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11141; Part 60 of Title 41 of the Code of Federal Regulations; The Age Discrimination in Employment Act of 1967; and laws, regulations, or amendments as may be promulgated hereunder.

B. Requirements of the State of Kansas

1. The contractor shall observe the provisions of the Kansas Act against discrimination (Kansas Statutes Annotated 44-01001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in the particular work, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase "Equal Opportunity Employer" or a similar phrase to be approved by the Kansas Commission on Civil Rights;

3. If the contractor fails to comply with the manner in which the contractor reports to the Kansas Commission on Civil Rights, in accordance with the provisions of K.S.A. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against discrimination under a decision or order of the Kansas Commission on Civil Rights which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contract shall include the provisions of paragraphs 1 through 4, inclusively, of this subsection B in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

C. Exempted from these requirements are: (State of Kansas)

1. Any contractor, subcontractor, vendor, or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the federal government, or a contract involving federal funds.

2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract.

3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.

D. Provisions of the City of Wichita, Kansas, relating to Nondiscrimination – Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Codes of the City of Wichita against discrimination (Section 2.12.900, et seq. of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, physical handicap, national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Nondiscrimination and Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program when required to the Citizen Rights and Services Division/Board of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisement for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, physical handicap, national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase “Equal Opportunity Employer,” or a similar phrase that is deemed acceptable by the Citizen Rights and Services Division/Board;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules and regulations of the Citizen Rights and Services Division/Board and will permit access to books, records and procedures concerning employment relations by the Citizen Rights and Services Division/Board of said City for purposes of investigation to ascertain compliance with Nondiscrimination and Equal Employment Opportunity Requirements. If the vendor, supplier, contractor or subcontractor fails to comply with the manner in which he/she or it reports to the CRS Division in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency.

4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Nondiscrimination and Equal Employment Opportunity under a decision of the Citizen Rights and Services Division/Board of the City of Wichita, Kansas, the vendor, supplier,



contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be canceled, terminated or suspended in whole or in part by the City of Wichita, and such other sanctions and remedies may be imposed as provided by law;

5. The vendor, supplier, contractor or subcontractor shall include the provisions of subsections 1 through 4 inclusively, or this present section in every subcontract, subpurchase order or sub agreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

E. Exempted from these requirements are: (City of Wichita)

1. Any contractor or subcontractor, vendor or supplier of the City of Wichita or any of its agencies who wishes to enter into a contract, purchase order or agreement which is covered by the provisions of Section 2.12.900 et seq. of the Code of the City of Wichita, Kansas, shall, prior to entering into such contract, purchase order or agreement, submit to the Citizen Rights and Services Division/Board of the City of Wichita, Kansas, a preliminary report on forms provided by the Board concerning Nondiscrimination and Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:

a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees or whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

b. The provisions of Section 2.12.900 et seq. shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons of holding a contract with the federal government or contract involving federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the federal agency involved.

c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correcting such deficiencies, in accordance with instructions included with the preliminary report, for review, evaluation and acceptance prior to a contract, purchase order or agreement award.

F. Failure of any contractor, subcontractor, vendor or supplier to report to the Kansas Civil Rights Commission as required by K.S.A. 44-1031, as amended, or to the Citizen Rights and Services Division/Board of the City of Wichita as required by 2.12.900 et seq. of the code of the City of Wichita, Kansas; or has been found guilty of a violation of the City's ordinances, state statutes, or federal statutes, or regulations pertaining to unlawful

discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be canceled, terminated or suspended in whole or in part by the City or its contracting agency.

CITY OF WICHITA  
REQUEST FOR PROPOSAL  
DEPARTMENT OF PUBLIC WORKS  
BUILDING SERVICES DIVISION  
CONSULTANT SERVICES  
FOR  
CONDITIONAL APPRAISAL/MAINTENANCE REVIEW  
AND  
MODIFICATIONS  
OF THE  
CITY HALL PARKING GARAGE  
WICHITA, KANSAS

I. Introduction

The City of Wichita is seeking proposals from a Consultant to engage in a conditional appraisal/maintenance review and modifications of the City Hall Parking Garage located at 455 North Main.

Construction of the City Hall Parking Garage was completed in December of 1995. It consists of four levels with a parking capacity of 640 parking stalls. The parking structure is at the west side of City Hall, which is located along Main Street between 3rd Street and Central Street. The traffic circulation uses a three-bay side-by-side helix system.

One stair tower is located at the southwest corner of the facility and another stair tower with an elevator is located on the eastside of the facility to provide pedestrian access to the garage. Vehicular access is located on south and north sides of the structure.

The supported floor system consists of precast and prestressed concrete double-tee girders spanning between concrete panels and perimeter walls. The double-tee girders have a field-topped 3 in. thick silica fume concrete topping reinforced with wire mesh placed at mid-depth of the topping slab.

In July 1999, Walker Parking Consultant/Engineers, Inc. did a condition appraisal and maintenance review of the garage. Repair and maintenance work identified in their report were completed.

## II. Statement of Policy

It is the policy of the City of Wichita to retain necessary professional services on the basis of demonstrated competence and qualification for the type of services required at fair and reasonable prices. The Request for Proposal (RFP) process is often used to acquire professional services or with strong emphasis on qualifications, skills, expertise, and experience. Preference will be given to local consultants when all other considerations are equal.

## III. Scope of Services

The Consultant will conduct a conditional appraisal and maintenance review of the garage. In addition, Consultant will assist in the design, plans and specifications of Owner desired modifications.

First Priority – Condition Appraisal and Maintenance Review.

- Evaluate the existing condition of the parking facility through visual observations and testing selected concrete samples.
- Based on the condition appraisal and maintenance review provide repair and maintenance work items to protect the useful life of the parking facility in report form.
- Work with Owner to develop bid documents for the recommended repair and maintenance work items and provide construction administrations of those items.

Second Priority – Owner Desired Modifications.

- Recommend and design a replacement stair for the existing southwest corner stair. The Owner desires to install a stair that is not constructed with steel pans filled with concrete as this holds moisture and creates rust. An open stair tread design that allows for drainage yet provides for screening from the bottom is desired.
- Recommend and design a protective coating for all the exposed steel railings throughout the facility. The existing railings have been re-painted several times but continue to rust.
- Recommend and design a new floor covering for the east stair/elevator tower. The existing rubber tiles are coming loose and are a safety hazard during wet conditions.

The consultant will be required to provide as a minimum the following deliverables:

- Written Condition Appraisal and Maintenance Review to include but not be limited to the following information:
  1. Remedial and Maintenance Recommendations.
  2. Background of facility.
  3. Discussion of findings.
  4. Observations and findings.
  5. Laboratory test results.
  6. Recommended maintenance for the facility.
- Design and written plans and specifications for the following:

1. Remedial and maintenance findings of the condition appraisal and maintenance review.
2. Southwest corner stair modifications.
3. Protective coating for the exposed steel.
4. Floor covering for the east stair/elevator tower.

· Construction Administration for work bid.

#### IV. Project Schedule

1. The Project budget for construction work for the City Hall Garage is scheduled for 2005.
2. The design work may begin as soon as a contract is approved.

#### V. General

When authorized by the City, proceed with the development of Plans for the PROJECT based on the preliminary design concepts approved by the City.

1. Design will be presented to and have approvals from City Staff, the City's Design Council to review project design and interpret engineered drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size materials, colors, landscape, exterior, relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise.
2. Prepare sealed construction plans and drawings; plan quantities and supplemental specifications as required. The PROJECTS plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement following Construction." Also final plans, field notes and other pertinent project mapping records are to be provided to the City via floppy diskettes (3 ½ ), CD-ROM, or other media acceptable to the City. The files are to be AutoCAD drawing files of the final plans; CONSULTANTS will also need to supply electronic files of the drawings in PDF format.
3. Design will meet all current applicable code requirements of governing agencies, and will be in compliance with requirements of the Americans with Disabilities Act (ADA).

#### VI. Detailed Request for Proposals

Consultants interested in submitting proposals may register on the City's e-procurement system.

Firms submitting detailed proposals shall provide:

1. Resume of proposed project manager.
1. Name of principal who will be responsible for the work.
2. Ability of firm to meet required time schedules.
3. Description of how the project would be conducted.
4. List of references.
5. Conflicts of Interest.
6. Provide estimated fee amount. Project budget has been set at \$50,000 for design and \$200,000 for maintenance repair/modifications (less finance costs of 3%) in 2005.

Questions regarding the proposals should be addressed to:

Norman R. Jakovac, Special Projects Coordinator  
City Hall, 8th Floor  
455 North Main  
Wichita, Kansas  
P (316) 268-4474  
F (316) 337-9027  
Email njakovac@wichita.gov

## VII. PROPOSAL EVALUATION AND SELECTION

The City's prime objective in the evaluation process will be to select the Consultant best qualified to provide architectural and engineering services for the proposed conditional appraisal/maintenance review and modifications.

The City will evaluate proposals based on design and engineering knowledge, prior experience with similar projects, and ability to complete the work as scheduled.

Evaluation will be based primarily on the written proposal submitted.

Please submit one (1) original and (10) copies of the proposal to: MELINDA WALKER, PURCHASING MANAGER, 12TH Floor, City Hall 455 North Main – Wichita, Kansas 67202 by 5:00 PM, December 30, 2004.

No profit or handling fee will be paid to the Consultant for services provided by subcontractors including but not limited to landscape architectural services, geotechnical services, right-of-way services, artists, etc. Please take this into account when preparing your proposal fees.

## VIII. SPECIAL CONDITIONS

1. The City reserves the right to:
  - 1) Issue supplementary information or guidelines relating to the RFP during the proposal preparation period;

- 2) Waive any informalities; and
- 3) Reject any or all proposals. The City also reserves the right to modify the scope of services during negotiation of the contract.
2. All proposals, including supporting documentation/manuals, shall become the property of the City.
3. If desired, the City reserves the right to reutilize a portion or portions of a design, in part or in whole, for a City project which may be similar in nature or scope. If special circumstances occur from differences in site conditions which may require different design allowances for footing designs or other possible factors such as utility requirements or other needs, the City will bear the responsibility of obtaining design services (if necessary) to provide for changes to the design plans and/or specifications as required.
4. All proposals are considered to constitute firm offers for a period of up to three (3) months following the final day on which proposals will be accepted.
5. All costs incurred in the preparation and presentation of this proposal shall be wholly absorbed by the proposer.

### **Agenda Item No. 6d**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0017

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement No. 3 for Murdock Street Bridge over the Little Arkansas River (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On December 2, 2003, the City entered into an Agreement with Professional Engineering Consultants, P.A. (PEC) for designing improvements to the Murdock Street Bridge over the Little Arkansas River that includes rehabilitation of the abutments, piers, sidewalk, railing, and bridge deck. The fee was \$17,988. On April 13, 2004, the City Council approved Supplemental Agreement No. 1, for construction engineering services. The fee was \$95,000. On November 1, 2004, a 36" waterline broke near the east end of the bridge. On January 4, 2005, the City Council approved

Supplement Agreement No. 2, for additional design services to design a replacement waterline and construction engineering services to assess possible bridge damage caused by the waterline break. The fee was \$32,200.

Analysis: The proposed Supplemental Agreement No. 3 between the City and PEC provides for construction engineering services for the emergency waterline replacement.

Financial Considerations: Payment to PEC will be on an hourly basis, with a maximum fee not to exceed \$32,000, and will be paid by Water Utility Operating Revenues.

Legal Considerations: The Supplemental Agreement No. 3 has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement No. 3 and authorize the necessary signatures.

#### SUPPLEMENTAL AGREEMENT NO. 3

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED DECEMBER 2, 2003

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated December 2, 2003) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to MURDOCK STREET BRIDGE OVER THE LITTLE ARKANSAS RIVER.

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

CONSTRUCTION ENGINEERING

(as per the City of Wichita Standard Construction Engineering Practices)

MURDOCK BRIDGE EMERGENCY WATERLINE REPLACEMENT

(Project No. 448 89900, OCA No. 636126)

B. PAYMENT PROVISIONS

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on an hourly basis at a rate of \$78.00 per hour for the Staff Engineer/Field Engineer and \$60.00 per hour for the Project Inspector, with a maximum fee not to exceed \$32,000.00.

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

BY ACTION OF THE CITY COUNCIL



\_\_\_\_\_  
Carlo Mayans, City Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

\_\_\_\_\_  
(Name & Title)

ATTEST:

\_\_\_\_\_  
**Agenda Item 6e.**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0018

TO: Mayor and City Council

SUBJECT: Unsewered Areas Project – Technical Services Agreement  
All Districts

INITIATED BY: Department of Environmental Health

AGENDA: Consent

Recommendation: Approve the agreement and authorize its signing.

Background: It is estimated that there may be as many as 4,000 parcels of land within the City of Wichita that are not connected to public sewer. Due to potential environmental health concerns and the possibility of ground and surface water contamination from the use of septic systems, Kansas Department of Health and Environment (KDHE) has allocated funds to Department of Environmental Health (EH) to conduct a survey of these properties through the use of GIS mapping and review of local records, documents and other existing data.

Analysis: An agreement has been developed between EH and the University of Kansas School of Medicine – Wichita (UKSM-Wichita) to conduct a survey using faculty, staff and graduate students from the UKSM-Wichita's Department of Preventive Medicine and Public Health. The agreement calls for the UKSM- Wichita to conduct the survey and provide a written report to the City identifying and confirming properties within the City that do not have the benefit of public sewer. The report will also provide recommendations regarding areas that need to be prioritized for public sewer due to environmental impacts or environmental health concerns. This information and report will satisfy KDHE initiatives and provide the City with valuable information for development of long range plans for public sewer projects to un-served areas within the community. Work performed under this technical services agreement will run through KDHE's State Fiscal Year (SFY) 2005.

Financial Considerations: The study will be funded via a grant from KDHE. Initial responses to a request for proposal were in excess of the available grant funding. Staff explored the option of contracting with UKSM –Wichita and determined that UKSM – Wichita has experienced staff and graduate students available for assignment to the project. UKSM-Wichita will be able to accomplish the work within the funding available and SFY 2005 schedule. Payments to UKSM-Wichita will not exceed \$25,000 per the proposed contract.

Legal Considerations: The Agreement has been reviewed by the Law Department and is approved as to form.

Recommendation/Actions: It is recommended that the City Council approve the agreement and authorize the appropriate signatures.

### **Agenda Item #6f**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0047

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Kellogg/Rock Road Interchange (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement with Cook, Flatt, and Strobel to perform construction and administration services.

Background: On June 10, 1997, the City entered into an agreement with Cook, Flatt, and Strobel to begin preliminary design for East Kellogg, from Edgemoor to 127th East. On May 8, 2001, the City Council entered into an agreement with Cook, Flatt, and Strobel to prepare construction plans for the Kellogg/Rock Road Interchange, which includes all construction from west of Armour to near the Kansas Turnpike.

On April 2, 2002, the City Council adopted Ordinance 45-294, which authorizes construction and provides funding for the project.

Analysis: The project design is nearing completion, and substantial amounts of right-of-way have been acquired. Originally, the Kellogg/Rock project was designed to be constructed as one large contract. Because of the time required to purchase and clear the right-of-way at various locations, the project has been divided into several smaller projects, which utilizes the right-of-way that has been acquired.

The agreement, dated June 10, 1997, with Cook, Flatt, and Strobel, provides that Cook, Flatt, and Strobel, when authorized by Supplemental Agreement, will perform construction inspection and administration services. On January 11, 2000, Supplemental #1 was approved for Cook, Flat and Strobel to prepare final plans, specifications and estimates for the section of Kellogg from Sylvan Lane to 0.5 miles east of Woodlawn, known as the Woodlawn Interchange. On May 14, 2000, Cook, Flat & Strobel was given the Notice to Proceed with final plan preparation of the Kellogg & Rock Road interchange in accordance with Supplemental #2. On September 17, 2002, Supplemental #3 was approved for Cook, Flatt, and Strobel to provide construction inspection and administration for the section the Woodlawn Interchange. On December 2, 2003 the City Council approved Supplemental #4 for construction inspection and administration of box culverts at Armour Road and Gypsum Creek, the Rock Road Pump Station, the northeast frontage Road, and Armour north of Kellogg. This proposed Supplemental Agreement #5 will provide construction inspection and administration services for the southeast frontage road from Rock Road to the Kansas Turnpike.

Financial Considerations: Payment to Cook, Flatt, and Strobel will be on a cost plus fixed fee in an amount not to exceed \$154,833.67. The cost of Kellogg and Rock Road improvements bid to date are \$9,279,195.15. The cost of the southeast frontage road is \$2,154,240. This is Capital Improvement Program F-32 and is authorized by Ordinance 45-294.

Legal Considerations: The Supplemental Agreement No. 5 has been approved as to legal form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement No. 5, and authorize the necessary signatures.

#### SUPPLEMENTAL AGREEMENT NO. 5

to the

AGREEMENT FOR ENGINEERING SERVICES DATED JUNE 10, 1997

between

THE CITY OF WICHITA, KANSAS

Party of the First Part, hereinafter called the  
"CITY"

and

COOK, FLATT & STROBEL, ENGINEERS, P.A.

Party of the Second Part, hereinafter called the  
"ENGINEER"

WITNESSETH:

WHEREAS, the CITY desires to proceed with the construction of the portion of the PROJECT from east of Rock Road to KTA Interchange (i.e. Southeast Frontage Road) hereinafter called the CONSTRUCTION PHASE SERVICES – PART III, and

WHEREAS, THE City desires to modify the original agreement dated June 10, 1997 to include Construction phase engineering and inspection services, construction phase surveying, utility coordination, and provide coordination with landowners.

WHEREAS, there now exists a contract between the two parties covering Engineering Services to be provided by the ENGINEER for the improvement of East Kellogg (US 54) from Sylvan Lane to and including K-96 Interchange.

WHEREAS, paragraph IV. B of the existing contract provides that the CITY may contract for additional work on the basis of a duly entered into Supplemental Agreement.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. ARTICLE, Scope of Services - revise to read:

". . . . to perform the PROJECT and supplemental services identified in Attachment 1A including:

CONSTRUCTION PHASE SERVICES - PART III - EXHIBIT B

2. ARTICLE IV, Payment Provisions - add to and revise paragraph A:

Payment to the ENGINEER for the performance of the professional services required for CONSTRUCTION PHASE SERVICES - PART III shall be based upon the ENGINEER=s actual costs and may be less than the estimated amount. Payment shall be full compensation for salary costs, expenses, overhead (overhead to be applied to straight-time salary cost only with premium overtime reimbursed at cost), profit, subcontracting and all other costs required in performing the work described herein. Overhead includes fringe benefits. The test of the allowability to be applied for this agreement shall be based on the provisions of the agreement and on the reasonableness of allocation of costs under generally accepted accounting principles and practices. Overhead costs shall be computed by multiplying an Overhead Factor with actual salaries or wages paid to personnel assigned to the PROJECT. The Overhead Factor shall be 155.0 percent for the work required by this agreement.

Total payments to the ENGINEER for the preparation of the work associated with CONSTRUCTION PHASE SERVICES - PART III shall include the actual costs accruing in the performance of the professional services as outlined in this agreement which are estimated to amount to \$139,369.35 plus a fixed fee for profit of \$15,464.32 so that the total payments shall not exceed the sum of \$154,833.67 and shall generally be in accordance with the estimate provided in ATTACHMENT 1A. Further, it is understood that the payments set forth in the original Agreement and Supplemental Agreements "total not to exceed" costs will be \$7,835,415.63.

3. Except as otherwise noted herein, all terms and conditions set forth in the original Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carlos Mayans, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form

\_\_\_\_\_  
Gary Rebenstorf, Director of Law  
Cook, Flatt & Strobel, Engineers, P.A.

By: \_\_\_\_\_  
Robert S. Chambers, Vice President

ATTEST:

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## SCOPE OF SERVICES STATEMENT

### SUPPLEMENTAL AGREEMENT NO. 5 TO THE AGREEMENT FOR PROFESSIONAL SERVICE DATED JUNE 10, 1997

#### I. GENERAL

The objective of this agreement shall be to:

1) Provide construction phase engineering and inspection services for the Section of the segment of East Kellogg east of Rock Road to KTA Interchange, known as Southeast Frontage Road.

#### CONSTRUCTION PHASE SERVICES – PART III (CPS-III)

Cook Flatt & Strobel Engineers, P.A. (Engineer) will function as the prime consultant for the inspection team, which will include Allied Labs as the subconsultant for material inspection and testing.

The work outlined henceforth shall hereinafter be referred to as the “CONSTRUCTION PHASE SERVICES – PART III (CPS-III)” to differentiate it from the PROJECT as defined in the original agreement.

#### II. SCOPE OF SERVICES

##### 1) Construction Phase Services

The ENGINEER shall provide engineering and technical service as required for the inspection of the project. Inspection will be carried out as required by the City of Wichita and Kansas Department of Transportation.

The Construction Inspection includes the following:

- a. Southeast Frontage Road (Rock Road to KTA)
- b. Contract Administration, Shop Drawing Review and Coordination with Landowners.

COST PROPOSAL

E. KELLOGG - ADDITIONAL SERVICES ROCK ROAD INTERCHANGE

1. CONSTRUCTION ENGINEERING / RESIDENT INSPECTION SERVICES

A. Southeast Frontage Road (Rock to KTA)

	Manhours	Rate	Labor Cost	
Senior Const. Project Engineer			180	\$38.00 \$6,840.00
Sr. Lead Project Inspector	540		27.00	14,580.00
Project Inspector	1,060		24.00	25,440.00
Clerical	32	16.50	528.00	
Subtotal	1,812			\$47,388.00

B. CONTRACT ADMINISTRATION AND COORDINATION WITH  
LANDOWNERS, BUSINESSES ETC.

	Manhours	Rate	Labor Cost	
Project Manager	8		\$55.00	\$440.00
Project Engineer	24		40.00	960.00
Design Engineer	18		28.00	504.00
Sr. Technician	24	25.00	600.00	
Technician	24	20.00	480.00	
Clerical	10	16.50	165.00	
Subtotal	108			\$3,149.00

DIRECT LABOR \$50,537.00

OVERHEAD ON LABOR 155.00% \$78,332.35

LABOR + OVERHEAD \$128,869.35

FIXED FEE 12.00% \$15,464.32

SUBCONSULTANTS

Allied Labs - Material Inspection \$3,000.00

SUBTOTAL SUBCONSULTANTS

\$3,000.00

DIRECT EXPENSES

\$7,500.00

TOTAL CONSTRUCTION ENGINEERING AND RESIDENT INSPECTION

\$154,833.67

**Agenda Item No. 7a**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0019

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Southern Ridge 2nd Addition (south of Pawnee, west of Maize) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the storm water drainage and paving improvements in Southern Ridge 2nd Addition on September 14, 2004.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of storm water drainage and paving in Southern Ridge 2nd Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$42,200, and will be paid by special assessments.



Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

## AGREEMENT

for

## PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

SOUTHERN RIDGE 2ND ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

STORM WATER SEWER NO. 610 serving Lots 1 through 57, Block A; Lots 1 through 18, Block B; Lots 1 through 33, Block C; Lots 1 and 2, Block D, Southern Ridge 2nd Addition (south of Pawnee, west of Maize) (Project No. 468 83894).

LARK from the east line of the plat, south to the north line of Hadden, on LARK from the south line of Hadden, south to the south line of the plat, on HADDEN from the east line of Lark, east to the east line of the plat, on FIELDCREST STREET from the west line of Lark, west to the west line of Lot 21, Block A. ATLANTA CIRCLE from the west line of Lark, west to and including the cul-de-sac, and on HADDEN CIRCLE from the west line of Hadden, west to and including the cul-de-sac. Sidewalk be constructed on Lark, Fieldcrest Street, and Hadden, (south of Pawnee, west of Maize) (Project No. 472 84097).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Southern Ridge 2nd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not

be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 468 83894	\$22,400.00
Project No. 472 84097	\$19,800.00
TOTAL	\$42,200.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or

because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY

COUNCIL

---

Carlos Mayans, Mayor

SEAL:

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

---

(Name & Title)

ATTEST:

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“EXHIBIT “A

#### SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

##### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer

for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.

a. Plan Development for the storm sewer improvements by 2/21/05 (Project No. 468 83894).

b. Plan Development for the paving improvements by 3/21/05 (Project No. 472 84097).

**Agenda Item No. 7b**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0020

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for The Fairmont 3rd Addition (west of 127th Street East, north of 21st) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in The Fairmont 3rd Addition on December 7, 2004.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in The Fairmont 3rd Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$38,700, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.



AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

THE FAIRMONT 3RD ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90027 serving Lots 1 through 19, Block A, The Fairmont 3rd Addition (west of 127th Street East, north of 21st) (Project No. 448 90027).

LATERAL 4, MAIN 10, FOUR MILE CREEK SEWER serving Lots 1 through 43, Block A, The Fairmont 3rd Addition (west of 127th Street East, north of 21st) (Project No. 468 83935).

STORM WATER DRAIN NO. 248 serving Lots 1 through 43, Block A, The Fairmont 3rd Addition (west of 127th Street East, north of 21st) (Project No. 468 83936).

NORTH 127TH COURT EAST from the east line of The Fairmont 3rd Addition west to and including cul-de-sac (west of 127th Street East, north of 21st) (Project No. 472 84136

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in The Fairmont 3rd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans,

and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90027	\$ 4,900.00
Project No. 468 83935	\$10,600.00
Project No. 468 83936	\$14,800.00
Project No. 472 84136	\$ 8,400.00
TOTAL	\$38,700.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the

ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY

COUNCIL

---

Carlos Mayans, Mayor

SEAL:

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

---

(Name & Title)

ATTEST:

---

“EXHIBIT “A

#### SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

##### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and

competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.

a. Plan Development for the water improvements by 2/14/05 (Project No. 448 90027).

b. Plan Development for the sewer improvements by 2/14/05 (Project No. 468 83935).

c. Plan Development for the drainage improvements by 2/21/05 (Project No. 468 83936).

d. Plan Development for the paving improvements by 3/7/05 (Project No. 472 84136).

**Agenda Item No. 7c**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0021

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Cheryl's Hollow Addition (north of 13th, west of 135th Street West)(District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Cheryl's Hollow Addition on December 21, 2004.

Analysis: The proposed Agreement between the City and Ruggles & Bohm, P.A.(R&B) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Cheryl's Hollow Addition. Per Administrative Regulation 7a, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to R&B will be on a lump sum basis of \$83,350, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.



AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

RUGGLES & BOHM, P.A.

for

CHERYL'S HOLLOW ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90029 serving Lots 1 through 24, Block 1; Lots 1 through 19, Block 2, Lots 1 through 20, Block 3, Cheryl's Hollow Addition and Unplatted Tract (north of 13th, west of 135th Street West) (Project No. 448 90029).

WATER DISTRIBUTION SYSTEM NO. 448 90030 serving Lots 1 through 24, Block 1; Lots 1 through 19, Block 2, Lots 1 through 20, Block 3, Cheryl's Hollow Addition (north of 13th, west of 135th Street West) (Project No. 448 90030).

LATERAL 4, MAIN 4, NORTHWEST INTERCEPTOR SEWER serving Lots 1 through 24, Block 1; Lots 1 through 19, Block 2, Lots 1 through 20, Block 3, Cheryl's Hollow Addition (north of 13th, west of 135th Street West) (Project No. 468 83937).

STORM WATER DRAIN NO. 249 serving Lots 1 through 24, Block 1; Lots 1 through 19, Block 2, Lots 1 through 20, Block 3, Cheryl's Hollow Addition and Unplatted Tract A (north of 13th, west of 135th Street West) (Project No. 468 83938).

STOUT from the north line of 13th Street North to the south line of Hunters View; HUNTERS VIEW/BELLICK from the west line of Cheryl's Hollow Addition to the east line of Stout; STOUT COURT from the west line Stout to and including cul-de-sac (Lots 3 through 9, Block 1); and STOUT COURT from the west line Stout to and including cul-de-sac (Lots 10 through 17, Block 1) (north of 13th, west 135th Street West) (Project No. 472 84139).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Cheryl's Hollow Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the

CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90029	\$ 8,100.00
Project No. 448 90030	\$ 8,000.00
Project No. 468 83937	\$14,000.00
Project No. 468 83938	\$17,100.00
Project No. 472 84139	\$36,150.00
TOTAL	\$83,350.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  2. Additional design services not covered by the scope of this agreement.
  3. Construction staking, material testing, inspection and administration related to the PROJECT.
  4. A major change in the scope of services for the PROJECT.
- If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or

because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

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Carlos Mayans, Mayor

SEAL:

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

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(Name & Title)

ATTEST:

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EXHIBIT "A"

#### SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY's Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER's contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved

utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.

a. Plan Development for the water improvements by 3/31/05. (Project No. 448 90029).

b. Plan Development for the water improvements by 3/31/05. (Project No. 448 90030).

c. Plan Development for the sewer improvements by 3/31/05. (Project No. 468 83937).

d. Plan Development for the drainage improvements by 3/31/05. (Project No. 468 83938).

e. Plan Development for the paving improvements by 3/31/05. (Project No. 472 84139).

### **Agenda Item No. 7d**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0022

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Sawmill Creek Addition (east of Rock Road, north of 45th Street North) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.



Background: The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Sawmill Creek Addition on November 16, 2004.

Analysis: The proposed Agreement between the City and Ruggles & Bohm, P.A.(R&B) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Sawmill Creek Addition. Per Administrative Regulation 7a, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to R&B will be on a lump sum basis of \$64,898, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

#### AGREEMENT

for

#### PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

RUGGLES & BOHM, P.A.

for

SAWMILL CREEK ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90022 serving Lots 38 through 47, Block 2; Lots 1 through 15, Block 3; Lots 17 through 23, Block 4; Lots 1 through 9, Block 5; Lots 35 through 45, Block 5, Sawmill Creek Addition (east of Rock, north of 45th Street North) (Project No. 448 90022).

LATERAL 2, MAIN 11, SANITARY SEWER NO. 23 serving Lots 38 through 47, Block 2; Lots 1 through 15, Block 3; Lots 20 through 23, Block 4; Lots 1 through 8, Block 5; Lots 41 through 45, Block 5, Sawmill Creek Addition (east of Rock, north of 45th Street North) (Project No. 468 83171).

STORM WATER DRAIN NO. 156 serving Lots 1 through 47, Block 2; Lots 1 through 15, Block 3; Lots 17 through 23, Block 4; Lots 1 through 9, Block 5; Lots 35 through 45, Block 5; Lots 17 through 37, Block 7, Sawmill Creek Addition (east of Rock, north of 45th Street North) (Project No. 468 83169).

BLADE from the center line of Reserve E to the east line of Sawmill Creek Addition; MILL RUN from the east line of Lot 16, Block 4 to the south line of Blade; SCRAGG CIRCLE from the south line Blade to and including cul-de-sac; SCRAGG from the north line Blade to the east line Sawmill Creek Addition; and BLADE COURT from the north line Blade to and including cul-de-sac. Sidewalk to be constructed on one side of Mill Run and Blade (east of Rock, north of 45th Street North) (Project No. 472 84123).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Sawmill Creek Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER

against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90022	\$ 7,600.00
Project No. 468 83171	\$ 8,800.00
Project No. 468 83169	\$19,018.00
Project No. 472 84123	\$29,480.00

TOTAL

\$64,898.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carlos Mayans, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

\_\_\_\_\_  
(Name & Title)

ATTEST:

\_\_\_\_\_

EXHIBIT "A"

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY's Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER's contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by 3/31/05 (Project No. 448 90022).
  - b. Plan Development for the sewer improvements by 3/31/05 (Project No. 468 83171).
  - c. Plan Development for the drainage improvements by 3/31/05 (Project No. 468 83169).
  - d. Plan Development for the paving improvements by 3/31/05 (Project No. 472 84123).

Agenda Item No. 8a

**CITY OF WICHITA**  
**City Council Meeting**  
February 15, 2005

**Agenda Report No. 05-0023**

**TO:** Mayor and City Council Members

**SUBJECT:** Acquisition of Tracts 10 & 11 for the Cowskin Creek Channel Improvement Project: Kellogg to Maple (District V)

**INITIATED BY:** Office of Property Management



**AGENDA:** Consent

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**Recommendation:** Approve the acquisition

**Background:** The Cowskin Creek Channel Improvement Project will require the acquisition of all or part of fourteen tracts along the creek between Maple and Kellogg. Two of the required acquisitions are located in the northeast quadrant of Maize and Kellogg. The two tracts encompass 30.14 acres and is undeveloped. The project requires 13.85 acres.

**Analysis:** The acquisition was appraised for \$270,000. This is based on a land value of \$20,000 per acre, damage to a fence valued at \$8,500 and an increase in value of the remaining land of \$1,000 per acre. The owner originally countered at \$600,000 but has agreed to accept \$330,000. The appraisal did not take into account the fact that the take eliminates frontage on and access to Kellogg Drive. Also, the concept of the take improving the per unit value of the remainder is counter to all the other appraisals on the project where loss of the creek area was determined to decrease the value of the remainder. Finally, the City paid \$61,000 per acre for a 39,204 square foot portion of this tract that was needed for the expansion of Kellogg, all of which serve to support the negotiated amount.

**Financial Considerations:** The funding source is Storm Water Utility and Federal funding. A budget of \$331,000 is requested. This represents \$330,000 for acquisition, and \$1,000 for closing costs, surveys, title insurance and other miscellaneous costs.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contracts; and 3) Authorize all necessary signatures.

**Agenda Item No. 8b**

CITY OF WICHITA  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0024

TO: Mayor and City Council Members

SUBJECT: Acquisition of 3814 East Mt. Vernon for the Dry Creek Basin Property Acquisition Project (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the acquisition

Background: There have been several, flooding incidents along the Dry Creek basin in East Wichita. As a result of this, the City Council approved a voluntary property acquisition program. The program calls for the acquisition of up to 16 residential properties that have habitable floors that are below the one hundred year flood elevation. One such property is 3814 East Mt. Vernon, which is owned by the Wendi Mack. The site contains 21,299 square feet and is improved with a 1,338 square foot wood frame residence.

Analysis: The city had the property appraised in January 2005. The appraised value of \$85,000 was offered to the owner.. The owner has agreed to sell the property for this amount. The improvements will be removed and the site maintained as open space.

Financial Considerations: A budget of \$90,750 is requested. This includes \$85,000 for the acquisition, \$5,000 for demolition and \$750 for closing costs and title insurance. The funding source is the Storm Water Utility.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Purchase Contract and 2) Authorize all necessary signatures.

## **Agenda Item No. 9**

CITY OF WICHITA  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0025

TO: Mayor and City Council Members

SUBJECT: Acquisition by Eminent Domain of Tracts Required for the East Kellogg/Rock Road Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property.

Background: The acquisitions required for the East Kellogg/Rock Road Improvement Project were released for active acquisition in December 2001. There are twenty-two total acquisitions and four partial acquisitions. Twenty of the total acquisitions and three of the partial acquisitions have been acquired or are in the process of being acquired. The remaining acquisitions are located near the northwest corner of Kellogg and Rock Road and involve part of the Town East Mall, all of the Old Chicago restaurant and all of the La Qunnta Motel.

Analysis: City staff and consultants hired by the City have been attempting to negotiate a purchase of the identified properties but have been unable to reach an agreement with the owners. Per Federal guidelines, offer values were set by review appraisals of certified appraisals. The taking from the Mall was appraised at \$1,410,000. Old Chicago was valued at \$1,540,000 and La Qunnta was valued at \$5,100,000. The Mall and the land under the other two tracts are owned by the same entity. Attempts have been made to arrive at a settlement involving the trade of some City-owned land and cash consideration but to date, no agreement has been reached. Staff will continue to negotiate with the owners, but due to the construction schedule for the project, eminent domain proceedings need to be initiated.

Financial Considerations: The cost of these acquisitions will be paid for by the City at large.

Legal Considerations: The Law Department has approved the resolution and ordinance as to form.

Recommendation/Action: Place the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisition, on first reading.

**Agenda Item #10**

CITY OF WICHITA  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0026

TO: Mayor and City Council Members

SUBJECT: Sale of Surplus Land Located at 4400 South Palisade (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the sale.

Background: An offer has been received for the City-owned parcel located at 4400 South Palisade. The site has 3.09 acres. Access is via a undeveloped easement along the drainage canal to 43rd Street South, approximately two blocks west. The property was developed in 1951 as the disposal facility for a privately owned sewer system. The tract, along with all improvements and personal property was condemned from the Purcell Utility Company by the Glenville Improvement District in 1955. The improvement district then deeded it via warranty deed to the City of Wichita in 1963. It is unknown whether all underground improvements were removed when the plant was demolished.

Analysis: The property has been offered for sale since 1996. It was included in the 2003 marketing program. An offer of \$3,000 was received from the current buyer and approved by the City Council. The buyer never executed a contract. He has now renewed his offer for the site, again at \$3,000. The buyer intends to develop the site with a vehicle maintenance facility for a firm in the area.

Financial Considerations: The City will receive cash consideration from the sale of the property at closing. In addition, the property will be placed back on the tax rolls and the City will be relieved of maintenance costs.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Purchase Contract and 2) Authorize all necessary signatures.

### **Agenda Item # 11**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0027

TO: Mayor and City Council

SUBJECT: Design Services for Improvements and Modifications to O. J. Watson Park  
(District III)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendations: Approve the selection and authorize the necessary signatures.

Background: On September 14, 2004, City Council approved and authorized the initiation of funding to provide design services for O. J. Watson Park in the amount of \$60,000. The 2005-2014 CIP program includes \$300,000 in 2005 and \$300,000 in 2006 for O. J. Watson Park improvements and modifications.

The City's Request for Proposal (RFP No. FP 400112) was developed to select a consultant to design a new park entrance to the west side of the park along McLean Blvd. and to enhance the area with landscaping. Additional proposed improvements will include extending the train tracks, and renovating/replacing the train and pony shelters.

Analysis: On November 17, 2004, the City received proposals from five design and engineering consultants. The following companies submitted proposals: K.E. Miller Engineering/Landmark Studio, Law/Kingdon, Hanney & Associates, Architects, Wilson Darnell Mann P. A., and Gossen Livingston Architecture. On December 14, 2004, the Selection Committee met and decided to interview K.E. Miller Engineering/Landmark Studio, Law/Kingdon, and Hanney & Associates, Architects. The three firms were interviewed by the Selection Committee on January 12, 2005. The firm of Law/Kingdon was selected, based on understanding of project requirements/objectives, staff designations, design fees, and the ability to provide services in a timely manner.

Financial Considerations: Funding for this project is provided by 2005 Park and Recreation Capital Improvement Funds. The proposed fee for professional services from Law/Kingdon, Inc. will be \$59,700.

Legal Considerations: The Law Department will review and approve the design contract as to form.

Recommendation/Actions: Approve the recommendation of the Selection Committee for design services for O. J. Watson Park and authorize the necessary signatures.

### **Agenda Item #12**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0028

TO: Mayor and City Council

SUBJECT: Enforcing Underage Drinking Laws (EUDL) Grant

INITIATED BY: Police Department

AGENDA: Consent

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Recommendation: Approve the application.

Background: For the past few years, the Wichita Police Department has placed an emphasis on eliminating underage alcohol consumption in our community. In an effort to address this problem, the Wichita Police Department, in collaboration with community agencies and citizens, developed and implemented the JUDGE (Juvenile Underage Drinking Group Education/Enforcement) program. The goals of the JUDGE program are to educate the public on underage alcohol consumption issues and enhance proactive enforcement of laws applicable to underage alcohol consumption. In an effort to assist with this effort, the Police Department is applying for a grant funded by the Kansas Department of Transportation, Bureau of Traffic Safety. The Enforcing Underage Drinking Laws (EUDL) grant is being made available to communities to support their enforcement activities in the area of preventing underage alcohol consumption. The Wichita Police Department received EUDL funding 2004 and is applying for funding again in 2005.

Analysis: The Kansas Department of Transportation is providing financial support in the form of a three-month mini-grant. Funds would be made available from March 1 through May 31, for overtime and commodities to support enforcement activities during Spring break, proms and graduations.

Financial Considerations: The Wichita Police Department grant application requests funding for the JUDGE program in the amount of \$21,000 for overtime and \$3,500 for commodities, for a total of \$24,500 to support enforcement activities. There is no local match.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the application and authorize the appropriate signatures.

### **Agenda Item # 13**

CITY OF WICHITA  
City Council Meeting

February 15, 2004

Agenda Report No. 05-0029

TO: Mayor and City Council Members

SUBJECT: Park & Recreation Marketing Agency for Summer Program

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendation: Retain Greteman Group for the marketing campaign.

Background: Summer of Discovery is the summer recreation program offered by the Park & Recreation Department for children age 13 and under. This program is filled with exciting, fun and educational activities that include special-themed weeklong activities to expand children's minds and interests. The program is licensed by the Kansas Department of Health & Environment, which means that it can serve as alternative daycare for working parents.

This program works as an educational outlet for children, while offering a unique option for working parents that need different daycare options. This program also receives federal grant dollars to provide those that qualify for financial assistance to enroll their child. Greteman Group donated the branding and marketing strategies of the program the first year. The City of Wichita would like to continue using the images and branding that was developed.

Analysis: Summer of Discovery needs marketing support to educate and inform the target audience as to the benefits of the program. The branding effort has been in place for five years.. With many summer program options available, continuing the marketing efforts is key to keep enrollment numbers up and to recover program cost. Greteman Group will provide services that continue the current branding strategy using graphics

services and updating of current tactics in place such as water bill inserts, advertisements, handouts, promotions and T-shirt design.

Financial Considerations: Not to exceed \$10,000 and is budgeted the City's marketing funds.

Recommendations/Actions: It is recommended that City Council approve Greteman Group and authorize the necessary signatures.

### **Agenda Item #14**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0030

TO: Mayor and City Council

SUBJECT: Interim Funding for Convention & Visitors Bureau

INITIATED BY: City Manager's Office

AGENDA: Consent

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Recommendation: Approve the allocation.

Background: Every year, the Greater Wichita Convention & Visitors Bureau works with City of Wichita staff to negotiate a new contract. While their allotment is approved as part of the process in the year prior's adopted budget, there is still discussion on a yearly basis of what the year's goals will be and how the organization can accomplish them.

Last year, the proposed 2004 contract focused on renewing marketing efforts for the organization with more focus on priority projects contained in the Strategic Master Plan for Tourism. Some of the important CVB goals for that year included: increase of convention and motor coach tour room nights; expanded hotel, attraction and activity with marketing and promotions; enhanced website capabilities, and increased efforts to secure private and other funding sources.

Analysis: Key goals were met as expected. Now, staff of both organizations are strategizing on new goals for 2005 that better matches the GWCVB's growth pattern and helps them succeed as an organization. In an effort to improve continuous quality within the City's partnership organizations, it is in the best interest of all parties to strive for



more measurable, challenging yet attainable goals. The final goals have not yet been finalized but efforts are on-going and will be ready by the March 1 agenda for presentation to City Council as New Business. Therefore, staff is requesting that the City of Wichita provide a portion of the contract funding to serve as working cash flow for the organization until the contract is finalized.

Financial Considerations: The amount requested is 1/12 of the total amount of the planned allocation as approved in the 2005-2006 Adopted Budget. This amount will be \$142,985 and is in the C&T Fund.

Legal Considerations: There are no legal considerations.

Recommendations/Actions: It is recommended that the City Council approve allocation from the C & T Fund and authorize the necessary signatures.

### **Agenda Item # 16**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0031

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures  
District I

INITIATED BY: Office of Central Inspection

AGENDA: New Business

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Recommendations: Adopt the resolutions.

Background: On January 4, 2005 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on February 15, 2005.

Analysis: On December 6, 2004, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

Property Address

Council District

- |                        |   |   |
|------------------------|---|---|
| a. 1443 South Water    | I |   |
| b. 1445 South Water    | I |   |
| c. 640 North Old Manor |   | I |

Detailed information/analysis concerning these properties is included in the attachments.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on January 10, 2005, and January 17, 2005. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings dangerous and unsafe structures, and accept the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structures would be contingent on the following: (1) All taxes have been paid to date, as of February 15, 2005; (2) the structures have been secured as of February 15, 2005 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of February 15, 2005 and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

### **Agenda Item #17**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0032

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request  
(Wichita Coffee Roasterie, Inc.)(District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

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RECOMMENDATION: Close the Public Hearing, approve first reading of the Ordinance and tax exemption request.

BACKGROUND: Wichita Coffee Roasterie, Inc., located at 4430 W. 29th Circle South was locally formed in 2003 and is a manufacturer of roasted coffee. In 2003 the company submitted a letter of intent to the Economic Development Office stating its intent to seek a property tax abatement from the City of Wichita under the Economic Development Tax Exemption (EDX) program to assist with the construction of building improvements and acquisition of new financing equipment in connection with their start-up business. The company is requesting Council approval of the EDX exemption at this time.

ANALYSIS: Wichita Coffee Roasterie imports raw coffee beans to provide unique blends of coffee. The raw product is measured into hoppers then loaded into an automated roasting oven. Wichita Coffee Roasterie uses a computer controlled roasting oven to provide the ability to manage the color and flavor of coffee beans for the desired coffee to be produced. Wichita Coffee Roasterie uses a De-Stoner machine to sort out impurities in which to provide the beans with the appropriate texture. Wichita Coffee Roasterie uses grinder and shaker machines to separates the beans from impurities. A silo is used as a process which takes the product through a de-gassing to separate out the carbon dioxide. For packaging the product, the company offers several combinations of packaging from clear film to filter-paper. Wichita Coffee Roasterie provides a custom packaged product that allows Managed Service distributors to “corporate label” their coffee. In addition to coffee roasting, the company started a bottled water operation, which includes production of 3 and 5-gallon bottle water. The coffee roasting operation is the larger of the two manufacturing operations.

As a start-up business, Wichita Coffee Roasterie started with no employees, and projects to add 18 new jobs over the next five years. The average annual wage is \$39,000. The company exports 75% of all production of out Kansas.

Wichita Coffee Roasterie’s expansion project is itemized in Exhibit I attached hereto. The company submitted its formal application for an EDX tax exemption on November 10, 2004, prior to the adoption by the City Council of the new Economic Development Incentive Policy. The amount of tax abatement has therefore been calculated based on the Business Incentives Policy that was in effect at that time. Under the Business Incentive Policy, Wichita Coffee Roasterie is eligible for the following:

#### TAX EXEMPTION ELIGIBILITY

ELIGIBLE % INCENTIVE	EXPLANATION
33.0% New Job Creation: 18 new jobs.	Wichita Coffee Roasterie will create at least

16.50% Capital Improvements: Wichita Coffee Roasterie will invest at least \$1,014,759.

49.5% Sub Total Business - Incentive Eligibility (Maximum allowed is 50%)

37.5% Export Premium: Wichita Coffee Roasterie exports 75% of its product outside Kansas.

37.5% Sub Total – Export Premium (Maximum allowed is 50%)

87.0% TOTAL EXEMPTION ALLOWED UNDER BUSINESS INCENTIVE POLICY

Wichita Coffee Roasterie is eligible for 87% tax exemption for a five-year term on new real and personal and 43.5% exemption on real property for a second five-year term, subject to Council review. A notice of public hearing has been published. Wichita Coffee Roasterie has agreed to comply with the conditions set forth in the Business Incentive Policy.

Financial Considerations: The estimated first year taxes on the proposed \$1,014,759 expansion would be \$26,695 on personal property, based on the 2004 mill levy. Using the allowable tax exemption of 87 percent, the City would be exempting (for the first year) \$23,224 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$6,519; County/State - \$6,198; and USD 259 - \$10,507.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	2.58 to one
Sedgwick County	1.70 to one
USD 259	1.72 to one
State of Kansas	6.23 to one

Legal Considerations: The City Attorney's Office will review and approve the Ordinance as to form.

As required by state law, a notice of public hearing has been published in the City's official newspaper and mailed to the governing bodies of Sedgwick County and U.S.D. 259.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting a 87% tax exemption on the identified real and personal property improvements for a five year term, and a 43.5% exemption on real property only, for a further five-year period, subject to City Council review.

Wichita Coffee Roasterie, Inc.

Exhibit I

Building Improvements      \$504,146

(See attachment)

Total Construction      \$504,146

Equipment Purchases:

Yale fork lift	\$ 9,000	
Semi-automatic filling machine	10,071	
Packaging equipment	98,919	
Roaster and grinder mfg. equipment	87,500	
Water bottling equipment	41,195	
Walk in cooler	28,570	
Box erector and conveyors system	25,358	
Small bottle water filler line	175,000	
Labeling equipment		35,000

Total Equipment      \$510,613

Total Expansion Project      \$1,014,759

**Agenda Item No. 18**

CITY OF WICHITA  
City Council Meeting  
February 15, 2005

Agenda Report No. 04-0033

TO:                      Mayor and City Council Members

SUBJECT:      Donation of Vacant Lot at 1601 North Topeka (District VI)

INITIATED BY:      Office of Property Management

AGENDA: New Business

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Recommendation: Approve donation of a City-owned vacant lot.

Background: In September 2002 the City of Wichita received four lots located at 1601 North Topeka in exchange for a City-owned parcel located at 1237 South Broadway. The Topeka parcel contains 14,000 square feet. It is zoned commercial although the area is primarily residential. The lots have been offered for sale since acquisition and were included in the 2003 marketing program. No offers have been received to date.

Analysis: Habitat for Humanity, a City approved non-profit Community Housing Development Organization (CHDO) has applied for the donation of these City-owned lots. They plan to develop the site with two single-family residences for sale to qualified first-time homeowners.

Financial Considerations: Donation of this lot will relieve the City of maintenance responsibilities and place the property back on the tax rolls. Additional tax value will be created by the development of the parcel.

Legal Considerations: The transfer deed has been approved by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the donation. and authorize the necessary signatures.

**Agenda Item No. 19**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0034

TO: Mayor and City Council Members

SUBJECT: Ordinance amendments, Sections 11.52.020, relating to impounding of vehicles; and Sections 3.49.030, 3.49.040, 3.49.070, 3.49.130, 3.49.140 and 3.49.170 regarding Emergency Wrecker Service Procedures. An ordinance creating Sections 11.99.010, 11.99.020, 11.99.030, 11.99.040 and 11.99.050 pertaining to private towing regulations.

INITIATED BY: Police Department

AGENDA: New Business

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Recommendation: Place the ordinance on first reading.

Background: In 2004, the Kansas Legislature amended K.S.A. 8-1102 regarding procedures to be followed by public agencies when vehicles are impounded by a law enforcement agency.

The amendments require that owners, as well as lienholders, be notified when a vehicle is impounded. Further, the amendments require individuals seeking to recover vehicles from impound to provide proof of valid registration and ownership before the vehicle is released.

Due to increasing fuel and insurance costs, fee increases for police tows were requested by the wrecker companies on the city's wrecker rotation list. Staff met with wrecker company representatives and have reviewed the documentation provided to support the fee increases. Staff believes that increases requested are reasonable.

In 2003, the Wichita Police Department towed approximately 5,000 vehicles. For each vehicle towed, the Wichita Police Department is required to notify, by registered mail, the owner of the vehicles towed. If the vehicle is not claimed by the owner, Police Property and Evidence staff prepare the vehicles for sale and assist wrecker services with auctioning the vehicle to the public. Auctions are held on a quarterly basis. It is estimated that it costs the Police Department approximately \$40.00 in staff time and mailing costs to prepare one vehicle for sale.

Analysis: The proposed amendments bring the City's ordinances into compliance with the Kansas statutes and increase the fees allowed to be charged by towing companies. The storage fee is increased from \$15.00 to \$20.00 per day; and the mileage fees are raised from \$2.30 to \$2.85 per mile, and for tows requiring larger wreckers the fee is raised from \$4.00 to \$4.50 per mile. The base towing fee is raised from \$55.00 to \$65.00.

The proposed amendments charge an administrative fee of \$15.00 per vehicle, to be paid to the City, to help offset the costs of notification, mailing and publication of vehicles to be sold at auction.

Lastly, the proposed amendments establish a procedure to be used by private citizens and business to tow abandoned vehicles from their property, after proper notice to the vehicle's owner. The amendments will decrease police involvement in these tows and allow for property owners to remove these vehicles in an expediated matter. The existing provisions of the nuisance code remain in effect for the towing of other types nuisance or abandoned vehicles.

Financial Considerations: The ordinance amendments will reduce Police workload by reducing the number of tows, while also increasing Police revenue by an estimated \$5.00 per tow. The \$15.00 administrative fee per vehicle will help offset the Police Department's costs of notification, mailing and publication of vehicles sold at auction.

Legal Considerations: The amendments have been prepared and approved as to form by the Law Department.

Recommendations/Actions: Place the ordinances on first reading and authorize the necessary signatures.

## **Agenda Item # 20**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0035

TO: Mayor and City Council

SUBJECT: Lease agreement between the City of Wichita, Department of Park and Recreation and the Sedgwick County Soccer Association (District IV)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the agreement and authorize the necessary signatures.

Background: As a result of findings from the Alternative Revenue Task Force and direction from the City Council, staff has had ongoing talks with the soccer associations regarding the assumption of maintenance duties at City soccer fields by the association in exchange for the City of Wichita not receiving user fees from the soccer associations. Members of the Sedgwick County Soccer Association met with staff early in 2004 to initiate discussions on a formal lease agreement with the City.

Analysis: In May of 2004, staff began developing a lease agreement and continued to negotiate the terms of the agreement with the Sedgwick County Soccer Association. On November 16, 2004, at a City Council workshop, staff was directed to address maintenance standards, fees, insurance, nuisance/annoyance issues, and an inventory review in the lease agreement. A lease agreement has been created to the satisfaction of City staff and Sedgwick County Soccer Association.



Financial Considerations: Per City Council recommendations, any funding savings generated from this lease agreement will be used to enhance other grounds maintenance activities within the Park and Recreation Department.

Legal Considerations: The Law Department will review and approve the lease agreement as to form.

Recommendation/Actions: It is recommended that the City Council approve the agreement and authorize the necessary signatures.

## **Agenda Item No. 21**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0036

TO: Mayor and City Council

SUBJECT: ZON2004-00066 - Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial. Generally located northwest of Oliver and Washington Blvd. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (non-consent)

MAPC Recommendations: Approval subject to the provisions of Protective Overlay #151; and forward the request to District Advisory Board III prior to sending the case to the City Council. (vote 8-2)

MAPD Staff Recommendations: Approval subject to the provisions of Protective Overlay #151.

DAB Recommendations: Will hear February 2, 2005. Planning Director will report on DAB action at the City Council meeting.

Background: The applicant requests a zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on portions of two lots amounting to approximately five acres. The remainder of the application area, including the existing building, is already zoned LC. The proposed rezoning area lies along a public drainage-way, and is proposed to accommodate parking for a future US Postal facility. The

applicant proposes a Protective Overlay (PO) on the entire 16.16 acre property. The subject property is located northwest of the Oliver and George Washington Blvd. intersection. The site houses a large warehouse-type building and associated parking. North of the application area is a drainage-way, and "GC" / "LC" zoned retail uses. South and west of the application area are I-35, "SF-5" zoned open space, and "LC" zoned vacant land. East of the application area are "LC" and "GC" zoned commercial uses, including auto sales and services. West of the application area are "MF-29" zoned multi-family housing units in the Planeview neighborhood.

Analysis: At its regular meeting on January 13, 2005, the Wichita-Sedgwick County Metropolitan Area Planning Commission considered this request and approved it, subject to the following provisions of Protective Overlay #151:

1. Parking shall be provided in accordance with Section IV of the Unified Zoning Code.
2. Development of property shall comply with Section III-B-14 of the Unified Zoning Code (the "LC" limited commercial district).
3. Setbacks are as indicated on the plat of Krumsick & Barrett Addition.
4. A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.
5. Signs shall be in accordance with the Sign Code of the City of Wichita.
6. Access Controls shall be as shown on the final plat.
7. All exterior lighting shall be shielded to direct light disbursement in a downward direction.
8. All property shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, etc.), and shall comply with the Unified Zoning Standard in Article IV-B.4.
9. Utilities shall be installed underground on all parcels.
10. Landscaping for this site shall be required as follows:
  - a. Development of all land shall comply with the Landscape Ordinance of the City of Wichita. Partial waivers can be granted by the Director of Planning based upon site constraints.
  - b. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.

11. Rooftop mechanical equipment shall be screened from ground level view per Unified Zoning Code.

12. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view, with these areas being screened by a screening wall/fence consisting of materials of the main structure and being connected to the building whenever possible.

13. All buildings shall share uniform architectural character, color, texture, and the same predominate exterior building material, as determined by the Director of Planning.

14. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.

15. The Transfer of title of all or any portion of land does not constitute a termination of the Protective Overlay or any portion thereof, but said Protective Overlay shall run with the land and be binding upon present owners, their successors and assigns.

16. The development of this property shall proceed in accordance with the Protective Overlay as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

17. Any major changes in this Protective Overlay shall be submitted to the Planning Commission and to the Governing Body for their consideration.

District Advisory Board III is scheduled to hear this request on February 2, 2005. The Planning Director will report on the DAB action at the City Council meeting.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the first reading of the ordinance establishing the zone change subject to the provisions of Protective Overlay #151; or

2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the members of the governing body on the first hearing.)

## **Agenda Item No. 22**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0037

TO: Mayor and City Council

SUBJECT: ZON2004-00063 - Zone change from "NR" Neighborhood Retail to "LC" Limited Commercial and an amendment to Protective Overlay District #3. Generally located south of Lincoln and east of Webb Road. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, vote (10-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Due to lack of a quorum, no formal recommendation by the board was made.

Background: The applicant requests a zone change for 4.5 acres located south of Lincoln and east of Webb from "NR" Neighborhood Retail to "LC" Limited Commercial. The applicant has a contract to sell a portion of the subject property to a cosmetology school. The Unified Zoning Code defines a cosmetology school as a "Vocational School", which is first permitted by right in the "LC" district. The subject property is restricted by the provisions of Protective Overlay District #3, which includes zoning restrictions pertaining to landscaping, signs, architectural control, lighting, traffic, screening, and permitted uses. The applicant proposes to amend Protective Overlay District #3 to continue the same zoning restrictions on the subject property, except that a "Vocational School" would be permitted in addition to the uses currently permitted on the subject property (see attached "Proposed Amendment to Protective Overlay District #3).

The character of the surrounding area is predominately residential with a mixture of low-density and high-density housing as well as institutional uses in the vicinity. The subject property was approved for commercial development in 1996 but has remained vacant.

The property to the north is zoned "SF-5" Single Family and is developed with a church. The properties to the south and east are zoned "SF-5" Single Family and are developed with single family residences. The properties to the south are zoned "B" Multi-Family and are developed with residential uses. The properties to the west across Webb are zoned "TF-3" Two Family and are developed with single family residences.

Analysis: There were no speakers in opposition to the request at the DAB hearing on January 3, 2005, or at the MAPC hearing on January 13, 2005. The DAB lacked a quorum, so no formal recommendation was made. The MAPC voted unanimously to recommend approval of the requested zone change and amendment to Protective Overlay District #3.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and amendment to Protective Overlay District #3; place the ordinance establishing the zone change and Protective Overlay District #3 amendment on first reading; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

### **Agenda Item No. 23**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0038

TO: Mayor and City Council

SUBJECT: ZON2004-00064 - Zone change from "SF-5" Single-family  
Residential to "GO" General Office. Generally located at the northwest corner of Douglas and Ridge Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approval of “GO” General Office subject to a Protective Overlay,  
vote (10-0).

MAPD Staff Recommendations: Approval of “GO” General Office subject to a Protective Overlay.

DAB Recommendations: Approval of “GO” General Office subject to a Protective Overlay, vote (6-1).

BACKGROUND: The application area is located at the northwest corner of Ridge Road and Douglas Avenue. The site is located approximately one-quarter mile north of the Maple and Ridge Road intersection. It is a 1.25-acre site made up of three platted lots, Lots 13, 14 and 15, Block B, Westview Addition, currently zoned “SF-5” Single-family Residential. Two of the lots appear to be developed with single-family uses. The northernmost lot appears to be vacant. As stated on the application, the applicant is seeking “NR” Neighborhood Retail zoning in order to “provide neighborhood retail opportunities on property no longer valid for residential uses.” The site has a 30-foot platted building setback established along the south and east property line.

While the application area is zoned single-family, the remainder of the block (land located north and west of the site) on which it is located is zoned “MF-18” Multi-family Residential, and developed with four-plex and apartment buildings. Land to east is developed as single-family homes and zoned “SF-5” Single-family Residential. The lot to the south of the site is zoned “GO” General Office, and developed with an office building. The remainder of the land to the south is zoned “SF-5” Single-family Residential and developed with single-family uses. Other than the “GO” zoned lot located to the south, it is 750 feet from the application area to the closest non-residentially zoned property (“LC” Limited Commercial) located at the Maple and Ridge intersection.

“NR” zoning limits individual commercial uses to a maximum of 8,000 square feet of gross floor area. No outdoor storage or display is permitted for commercial uses. Ground signs are permitted, one per business up to 32 square feet in height, and they must be spaced 50 feet apart if there are more than one pole sign. Building heights of up to 35 feet are permitted. A site this size, developed at 30 percent could allow up to 16,335 square feet of gross floor area, which could generate up to 686 average daily trips.

Analysis: District Advisory Board (DAB) V reviewed this request on January 3, 2005, and recommended approval of “GO” General Office zoning (6-1), subject to a Protective Overlay. Protective Overlay Number 152 contains the following conditions: 1) Any

building(s) constructed on the site should be single story in height, residential in character (e.g. rooflines should be hip or gable roof; exterior façade materials typical of residential construction should be wood, brick or stucco or similar materials). If multiple buildings are constructed on the site, they should share similar exterior materials and colors. Predominate exterior building colors should be muted. 2) Signage shall be per the sign code, except that all ground or pole signs shall be monument type, and no building signs shall face west or north. 3) Parking lot lighting standards shall not exceed 14 feet in height, shielded down. 4) Access shall be limited as follows: One access opening to Douglas. One access opening to Ridge Road. 5) Eliminate the following use – hospitals. No one spoke in opposition to the request at the DAB meeting.

The Metropolitan Area Planning Commission (MAPC) reviewed this request on January 13, 2005, and recommended approval of “GO” General Office zoning subject to the same Protective Overlay recommended by DAB V. No one spoke in opposition, however the Department received an e-mail expressing opposition (attached). The e-mail’s author owns property that is located outside of the 200-foot protest area.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

Concur with the findings of the MAPC and approve the zone change, subject to Protective Overlay Number 152; place the ordinance establishing the zone change and Protective Overlay on first reading; or

Return the application to the MAPC for reconsideration.  
(An override of the Planning Commission’s recommendation requires a two-third majority vote of the City Council on the first hearing.)

## **Agenda Item No. 24**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0039

TO: Mayor and City Council

SUBJECT: ZON2004-00065 - Zone change from “B” Multi-family  
Residential and “GC” General Commercial to “LC” Limited Commercial. Generally

located between Hillside Avenue and Lorraine Street, approximately 305-feet south of Central Avenue. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve subject to the provisions of Protective Overlay #150 (Vote 10-0).

MAPD Staff Recommendations: Approve subject to the provisions of Protective Overlay #150.

DAB Recommendations: Approve subject to the provisions of Protective Overlay #150 (Vote 8-0).

Background: The applicant requests a zone change from “B” Multi-family Residential and “GC” General Commercial to “LC” Limited Commercial on what can generally describe as a southern portion of Reserve F, a portion of a drainage reserve, and the southern  $\frac{3}{4}$  portion of Reserve B, all in the Maple Grove Addition.

The subject properties are located between Hillside Avenue & Lorraine Street, approximately 305-feet south of Central Avenue. The subject site is currently developed as a brick, one story medical office with a parking lot on the Hillside Avenue frontage (Reserve F, zoned “GC” and “B”) and vacant land (Reserve B, zoned “B”) on the Lorraine frontage. The applicant proposes redevelopment of the property as a restaurant with a drive up window.

East of the subject site and across Hillside Avenue is PUD01-02. Its uses include: free standing general retail, a neighborhood-shopping strip, a restaurant, a hotel/motel, and office. South of the subject site is the previously mentioned drainage easement (Misc. Book 575, Page 217), which has part of the site’s parking lot located on it. South of the parking lot and within the drainage easement is a drainage channel, which runs west, over what used to be 3rd Street, to its intersection with the drainage channel that runs parallel with I-135. There are four-plexes located south of the drainage channel and south of the site. There is also a duplex abutting the south side of the site and on the north side of the drainage channel. All properties south of the subject site are zoned “B”. North of the subject site there are offices and a Spangles restaurant with a drive up window, which are all zoned “GC”. There is also a vacant single-family residence, zoned “B” abutting the northwest side of the site. The Wesley Hospital complex is located northeast of the subject site, on the northeast corner of Hillside Avenue and Central Avenue. Properties west of the site, across Lorraine Street, include single-family residences and a small apartment complex, all zoned “B”.

Analysis: District Advisory Board I (DAB I) considered this case at their January 3, 2005 meeting. DAB I recommended approval (8-0) of the zoning change with the



provisions of Protective Overlay #150. No one protested the zoning change request at this meeting. The MAPC considered this case at their January 13, 2005 meeting. The MAPC recommended approval (10-0) of the zoning change with the following provisions of Protective Overlay #150:

1. Dedication by separate instrument of access control onto Hillside Avenue and no access onto Lorraine Street, per the Traffic Engineer's recommendation.
2. Provide a restrictive covenant binding and tying the properties together.
3. The following uses are prohibited: manufactured home, correctional placement residence (limited and general), cemetery, broadcast and recording studios, animal care general, hospital, heliport, printing and copying limited, convenience store, car wash, construction sales and service, night club, tavern, pawn shop, recreation and entertainment indoor, vehicle repair limited, service station, reverse vending machine, wireless communication facilities, recycling collection station (private), asphalt or concrete plant, outdoor storage.
4. Maximum building height of 35 feet.
5. The speaker order board shall not project sound so as to be audible from the residential developments located to the west or to the south, or any other residential use in the vicinity.
6. On-site pole lights no higher than 14-foot. They shall be hooded and directed onto the site and away from the residential developments west and south of the site.
7. The trash dumpster shall be located a minimum of 20-feet from the west, north and south property lines with solid screening around it.
8. Solid screening around the south, west and north property lines shall be provided.
9. Signage will be as allowed in the "LC" zoning district, with no signs allowed on the west, north or south sides of the property or on the building.
10. Redevelopment plans for of the portion of the site located in the drainage easement, which is currently a parking lot, will need to be reviewed and approved by Storm Water Management, prior to construction.

No one protested the zoning change request at the MAPC meeting. Staff has received no written protests against the requested zoning change.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council:

1. Concur with the findings of the MAPC and approve the zone change to “LC” Limited Commercial, subject to the provisions of Protective Overlay Number 150; place the ordinance on first reading; authorize staff to withhold publication of the ordinance authorizing this zone change until all provisions are met; or
2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of all the members of the governing body on the first hearing.)

## **Agenda Item #25**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0040

TO: Mayor and City Council Members

SUBJECT: SUB 2004-113 -- Plat of Northwest YMCA Addition, Located on the North Side of 21st Street North and the West Side of 135th Street West.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This site, consisting of two lots on 50 acres, is located in the County within three miles of Wichita’s city limits. A County zone change (ZON 2004-30) from SF-20, Single-family Residential District to LC, Limited Commercial District has been approved for a portion of the site. This site is subject to the provisions of the Northwest YMCA Community Unit Plan (CUP 2004-17; DP-276). A Community Unit Plan Certificate (CUP) has been submitted.

Analysis: Petitions, all 100 percent, and a Certificate of Petitions have been submitted for sewer, water and paving improvements. In accordance with the CUP approval, a

Cross-lot Circulation Agreement to assure internal vehicular movement between the lots has also been submitted. For those reserves being platted for drainage purposes, a Restrictive Covenant was submitted providing for the ownership and maintenance of reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Legal Considerations: The CUP Certificate, Certificate of Petitions, Cross-lot Circulation Agreement and Restrictive Covenant will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

## **Agenda Item #26**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0041

TO: Mayor and City Council Members

SUBJECT: SUB 2004-118 -- Plat of South High School Third Addition,  
Located North of MacArthur and on the East Side of Seneca. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0)

Background: This unplatted site, consisting of one (1) lot on 8.95 acres, is located within Wichita's city limits and is zoned SF-5, Single-family Residential District. Municipal services are available to serve the site.

Analysis: This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

Legal Considerations: None identified.

Recommendations/Actions: It is recommended that the City Council approve the plat and authorize the necessary signatures.

## **Agenda Item #27**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0042

TO: Mayor and City Council Members

SUBJECT: DED 2004-33 -- Dedication of Access Control and DED 2004-34 --  
Dedication of a Drainage and Utility Easement for Property Located on the Northeast  
Corner of 21st Street North and Webb Road. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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MAPC Recommendation: Accept the Dedications. (12-0)

Background: These dedications are associated with a lot split case (SUB 2004-145) and are being dedicated for access control except for one opening along Webb Road and for construction and maintenance of public utilities.

Analysis: The Dedications have been reviewed and approved by the Planning Commission.

Financial Consideration: None.

Legal Consideration: The Dedications will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedications.

## **Agenda Item No. 28**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0043

TO: Mayor and City Council

SUBJECT: VAC2004-00001 Request to vacate a portion of access control, generally located midway between Webb Road and Greenwich Road on the south side of Kellogg Avenue. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (Unanimously)

Background: The applicants are requesting consideration to vacate a portion of access control located along the north line of Lot 1, Block A, Pizza Hut Second Addition, together with the west 30-feet of Lot 1, Block 1, KT Wiedemann Business Park Addition. The Pizza Hut Second Addition was recorded with the Register of Deeds on December 3, 1969. The KT Wiedemann Business Park addition was recorded with the Register of Deeds on May 29, 1980.

Currently access onto the Pizza Hut Second Addition is confined to the west 30-feet of Lot 1, Block A. Access onto Lot 1, Block 1, KT Wiedemann Business Park Addition is off of Wiedemann street, which abuts the east side of that lot. The applicant proposes to relocate access to the east corner of the north line of Lot 1, Block A, the Pizza Hut Second Addition and the west 30-feet of the north lot line of Lot 1, Block 1, KT Wiedemann Business Park Addition, creating a joint access for the two abutting sites. The applicant has contacted the Kansas Department of Transportation in reference to this request and has received guidelines for its approval, which the applicant has met.

Analysis: The MAPC voted to approve (11-0) this vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None.

Legal Considerations: A certified copy of the Vacation Order and a dedication of complete access control will be recorded with the Register of Deeds and provide a guarantee/petition for an extension and paving of the existing Kellogg – US-54 Highway frontage road.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

## **Agenda Item No. 29**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0044

TO: Mayor and City Council

SUBJECT: VAC2004-00062 Request to vacate a portion of platted complete access control located on the west side of Greenwich Road, approximately 253-feet north of 21st Street North (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (Unanimously)

Background: The applicant has applied for the vacation of a portion of complete access control located along the site's approximately 457.5-feet of Greenwich Road frontage to allow one shared, right in – right out access between Lots 2 & 3, The Regency Lakes Commercial 2nd Addition. The Regency Lakes Commercial 2nd Addition was recorded with the Register of Deeds on February 21, 1997.

The Manhattan Addition is located east of the site across Greenwich Road. The Manhattan Addition is platted with 4 openings, one being a major opening, along its approximately 1,522.25-feet of Greenwich Road frontage. Conceptual plans for improvements to this section of Greenwich Road indicate a median strip will be

constructed. Construction of the median strip and the proposed location of the shared right in – right out access will allow this type of access at this location, without conflict with traffic using access north and south of the site on the west side of Greenwich Road or with traffic using the Manhattan Addition's platted access, east and across Greenwich Road from the site.

Analysis: The MAPC voted to approve (11-0) the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None.

Legal Considerations: A certified copy of the Vacation Order and a dedication of access control by separate instrument will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

### **Agenda Report # 30**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0045

TO: Wichita Airport Authority

SUBJECT: Issuance of Airport Special Facilities Revenue Bonds (Yingling Aviation Project) (District IV)

INITIATED BY: City Manager's Office

AGENDA: Airport

Recommendations: Adopt the Bond Resolution.

Background: Cessna Aircraft Company leases certain properties on Mid-Continent Airport (known as Yingling Aircraft) for the purposes of operating a fixed base operation serving general aviation aircraft. Cessna subleases those facilities to Yingling Aircraft, Inc. Cessna and Yingling are desirous of building a 15,500 sq.ft. hangar and shop facility on land adjacent to Yingling and currently leased by Cessna, for the purpose of further

development of the business of aircraft refurbishment and completion work by Yingling Aircraft Inc.

On December 21, 2004, the Wichita Airport Authority adopted a resolution declaring its intent to issue Airport Special Facility Revenue Bonds in an amount not to exceed \$1,500,000 for the purpose of constructing the above-mentioned hangar, to be leased to the Cessna Aircraft Company and subleased to Yingling Aircraft Inc. The Airport Authority also determined that the income from the Project, exclusive of ground rental, will be sufficient to retire the Bonds.

Analysis: In order to accomplish this project, it is necessary to demolish a 50-year old office/shop structure on the north end of the current leasehold and to construct the hangar and shop facility. Further, it is necessary to relocate certain fences and security equipment. All of the above is a project cost to Cessna/Yingling. Costs to the Wichita Airport Authority are the installation of a new area fire hydrant and the relocation of a storm sewer which traverses the leasehold, at an estimated total cost of \$47,000. The facility will be titled to the Wichita Airport Authority and the leases involved will have a 30-year term.

Cessna/Yingling will fund the estimated \$1.5 Million project from the proceeds of an Airport Special Facility Revenue Bond issue in that amount. The Bonds will be purchased as a private placement by Cessna Aircraft Company.

Financial Considerations: The Wichita Airport Authority contribution of \$47,000 will be paid from airport revenues and is budgeted within the current CIP. As part of an on-going reconstruction of common-use entrances to the general aviation parking area, the road adjacent to the leasehold will be concurrently reconstructed.

Legal Considerations: Bond documents have been prepared by the Hinkle Elouri Law Firm. The Law Department has approved the documents as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority adopt the bond resolution authorizing the issuance of Airport Special Facilities Revenue Bonds in the amount of \$1,500,000 and approve the trust indenture, lease, sublease, and bond purchase agreement; and authorize the necessary signatures.

### **Agenda Item # 31**

City of Wichita  
City Council Meeting  
February 15, 2005

Agenda Report No. 05-0046

TO: Wichita Airport Authority



SUBJECT: Issuance of Airport Special Facilities Revenue Bonds (Cessna Citation Service Center Project) (District IV)

INITIATED BY: City Manager's Office

AGENDA: Wichita Airport Authority

Recommendations: Adopt the Bond Resolution.

Background: On December 18, 2001, the Wichita City Council approved a letter of intent to provide economic development incentives to Cessna Aircraft Company to assist its efforts to develop a 450,000 square foot Citation Service Center on 150 acres of land leased from the Wichita Airport Authority, on Hoover Road near Highway K-42. The financial incentive package included funding from the City, Sedgwick County, the State of Kansas and the Federal Aviation Administration. The City of Wichita has contributed \$8.7 million to fund up to half the costs relating to site preparation, roads, utilities, parking, landscaping, etc. and \$1.2 million to match FAA funding of a new taxiway. Cessna Aircraft company has been responsible for construction of the Citation Service Center building and the balance of site improvements, at a cost of more than \$55 million, which it is financing through the issuance of Airport Special Facilities Revenue Bonds.

On February 5, 2002, the Wichita Airport Authority adopted a resolution declaring its intent to issue Airport Special Facility Revenue Bonds in an amount not to exceed \$60,000,000 for the purpose of financing the construction of the above-mentioned Citation Service Center and Cessna's share of the site improvements. The Airport Authority also determined that the income from the Project, exclusive of ground rental, will be sufficient to retire the Bonds. On May 14, 2002, the Wichita Airport Authority issued \$49,300,000 tax-exempt Airport Special Facility Revenue Bonds, to finance the portion of the overall project costs that qualify for tax-exempt financing under the Federal Tax Code.

Cessna has now completed the Citation Service Center Project. To finalize the financing arrangements for the project, the Company requests the issuance of \$5,850,000 taxable Airport Special Facility Revenue Bonds, to finance the portion of project costs that do not qualify for tax-exempt financing.

Analysis: As a general proposition, Cessna Aircraft Company does not qualify under the Federal Tax Code for tax-exempt bond financing of its manufacturing facilities due to the capital expenditure limitations placed on most businesses seeking to use tax-exempt bonds to finance their facilities. Businesses that have capital expenditures of more than \$10 million over a six-year period, looking back three years and forward three years from the date of issuance, are precluded from using tax-exempt bonds. However, the Code provides an exception for facilities located at airports that are used in connection with aircraft operations, such as fixed base operations and repair and maintenance facilities (such as the Citation Service Center).

Cessna has chosen to house certain functions within the new Citation Service Center that do not conform with the uses permitted under the Federal Tax Code for tax-exempt financing, such as offices for customer relations representatives. To address this, Cessna has divided the overall financing into a tax-exempt piece and a taxable piece. The \$49,300,000 tax-exempt bonds issued in 2002 were underwritten by Banc of America Securities. The \$5,850,000 taxable bonds being issued at the present time will be purchased by Cessna Aircraft Company.

Financial Considerations: The City's share of the Citation Service Center incentive package is funded by a combination of airport funding, primarily for matching funds for taxiway improvements, and funding provided in the adopted CIP, primarily for site improvement costs and utility costs.

Legal Considerations: Bond documents have been prepared by the Hinkle Elouri Law Firm. The Law Department has approved the documents as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority adopt the Bond Resolution authorizing the issuance of taxable Airport Special Facilities Revenue Bonds in the amount of \$5,850,000 and approve the First Supplemental Trust Indenture, First Supplemental Lease, and Bond Purchase Agreement; and authorize the necessary signatures.